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Tom Yuxin Zhu

Name



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APPEAL BRIEF

REAL PARTY IN INTEREST:

The real party in interest is Tom Yuxin Zhu.

RELATED APPEALS AND INTERFERENCES:

This appeal is for the following patent application:

APPLICATION No.: 10/730,447
FILING DATE: December 8, 2003
TITLE: SPLASH-PREVENTION PAPER
Group Art Unit: 3751
Examiner: Robert M. Fetsuga.

STATUS OF CLAIMS:

Claims 29 to 37 are rejected.

Claims 29 to 37 are being appealed.

STATUS OF AMENDMENTS:

No amendments have been filed subsequently to final rejection.

GROUND OF REJECTION TO BE REVIEWED ON APPEAL:

The ground of rejection of the claims 29-33 and 35-37 under 35 U.S.C. 102(b) is requested to be reviewed.

The ground of rejection of the claims 29-37 under 35 U.S.C. 103 (a) is requested to be reviewed.

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ARGUMENT:

1. For claims 29-37 that are rejected under 35 U.S.C 103 (a) in the section 5, on pages 4-6 of the final office action issued on 8/29/2005.

The examiner talked about that using wax to create “a slippery surface” is obvious, in the section 5, on pages 4-6 of the final office action issued on 8/29/2005. But, the application of the present invention does not have any content about “create a slippery surface”. The applicant had already explained this on 6/21/2005, on section 5, page 5 in the response to the second OA issue on 2/22/2005. The applicant believes that the examiner had never had a clear understanding on the content of the application of the present invention, and are not willing to acquire a clear understanding of the content of the application of the present invention, and are not willing to correct his error. The clear evidences of the lack of understandings of the subject and the lack of logical in the arguments of the examiner indicates that the reasons that the examiner used to reject claims 29-37 are baseless. The examiner has not presented a convincing line of reasoning as to why the claimed subject matter would have been obvious.

Menter’s device is very different in both structure and principle from that of the present invention. The only similarities of the Menter’s device to the present invention are that Menter’s device is generally for the same applications, and is also made by a piece of paper. Menter’s device lacks of the novel features of the present invention. Menter’s device lacks of the “floating arms” of the present invention, such that Menter’s device will easily be sunk by the load on it. Menter’s device also lacks of the substantially complete coverage of the water surface, because Menter’s device rely on the opening (i.e. the slits) on the paper for the passage of the feces. Menter’s device is substantially a paper patent. It can not function as it is intended.

Pang’s device is permanently installed in the, e.g. toilet. It is not a

one-time-use device as the present invention. Its materials and construction are very different from the present invention. Because the Pang's device is not a one-time-use device, it has the problem of becoming dirty in its application, and it is difficult to be cleaned.

Menter's device is a one-time-use device. Pang's device is permanently installed device. These two types of device often have very different criteria in their design, construction, and material. It is not obvious to combine those two types of devices.

The present invention has many advantages in its effectiveness, simplicity, and low cost. The Menter's device and Pang's device have been disclosed for a long time, but the lack of implementation of a device like the present invention is a good indication that the present invention is not obvious to a person in the state of the art in reference to either Menter's device or Pang's device, or combination of the two.

2. For claims 29-33 and 35-37 that are rejected under 35 U.S.C 102(b) in the section 4 of pages 4 of the final office action on 8/29/2005.

That the examiner rejected claims 29-33 and 35-37 under 35 U.S.C 102(b) is also baseless.

As the applicant had already explained in section 4 of page 5 of the response on 6/21/2005 to the second OA dated on 2/22/2005: "The present invention is different from Menter's invention in both principle and structure". The examiner has been insisting his opinion without providing a reasonable explanation.

The floating arm of the present invention have a free end, which makes the floating arm movable (line 18 of page 4 to line 8 of page 5 the present application), such that it can yield to the falling feces to let the feces pass. While Menter's device

does not have such structure and function. The examiner insisted to call the material between the open slits of Menter's device as floating arm, but this "floating arm" can not move, it will hold the falling feces, and the device will be sunk because of holding the feces. The applicant has described this problem in application (line 12 to 19 of page 2 of the present application).

The floating arms of the present invention form a substantially complete coverage of the area that the device intends to cover. The space between the adjacent floating arms is not desirable (line 9 to 15 of page 5 of the present application). While, Menter's "floating arms", as the examiner insisted to call, can not form a high percentage of coverage. It has to have the opening, i.e. the slits in a good size, to form the passage for the falling feces, otherwise, the device will be sunk and becomes not functional.

Menter's device simply does not have a part that is same as the floating arm of the present invention in either structure or function.

Furthermore, the floating arms of the present invention is to damper the impact of the falling feces and meanwhile to maintain a substantially complete coverage of the surface of the water (line 16 to 19 of page 6 of the present application). The function of the slits is to "allow the rapid passage of excreta" (col. 2, lns. 35, 36), which functions just opposite of the floating arms of the present invention.

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CLAIMS APPENDIX:

Claim 29 (new): A splash-prevention device comprising a sheet of paper with
plurality of floating arms.

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meanwhile for the passage of substantially solid object through the said sheet of paper.

Claim 36 (new): A splash-prevention device of claim 35, wherein the said means for substantially complete coverage over the surface of the liquid and for the passage of substantially solid object comprising plurality of floating arms.

Claim 37 (new): A splash-prevention device of claim 36, wherein the said floating arms are formed by cut into the said sheet of paper.

EVIDENCE APPENDIX:

None.

RELATED PROCEEDINGS APPENDIX:

None.